

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DIANA GARCIA,

Plaintiff,

v.

No. CIV-14-0049 LAM

CAROLYN W. COLVIN, Acting
Commissioner of the Social Security
Administration,

Defendant.


**ORDER GRANTING PLAINTIFF'S UNOPPOSED MOTION FOR ATTORNEY FEES
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

THIS MATTER is before the Court on Plaintiff's *Unopposed Motion for Attorney Fees Under Equal Access to Justice Act (EAJA), With Supporting Memorandum (Doc. 26)* in the amount of \$2,400.00 for attorney fees. Plaintiff states that the Commissioner does not object to Plaintiff's request for attorney fees in this amount, but notes that any award of EAJA fees should be made payable to Plaintiff. [*Doc. 26* at 2-3]. The Court, having considered the motion, the record in this case, and the relevant law, and being otherwise fully advised **FINDS** that Plaintiff's motion is well-taken and will be **GRANTED**.

WHEREFORE, IT IS HEREBY ORDERED that Plaintiff's *Unopposed Motion for Attorney Fees Under Equal Access to Justice Act (EAJA), With Supporting Memorandum (Doc. 26)* is **GRANTED**, and Plaintiff is authorized to receive **\$2,400.00** for payment to Plaintiff's attorney for services before this Court, as permitted by the Equal Access to Justice Act, 28 U.S.C. § 2412, and in accordance with *Manning v. Astrue*, 510 F.3d 1246, 1255 (10th Cir. 2007).

IT IS FURTHER ORDERED that, if Plaintiff's counsel is ultimately granted attorney fees pursuant to 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's attorney shall refund the smaller award to Plaintiff pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 596 n.4 (2010) (explaining that, if a claimant's counsel is ultimately granted attorney fees under § 406(b) out of the claimant's benefit award, the claimant's attorney must refund to the claimant the amount of the smaller fee).

IT IS SO ORDERED.


LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE
Presiding by Consent